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W.P.(MD) No.444 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.444 of 2024

and

W.M.P.(MD)No.481 of 2024

K.Neethiraja

... Petitioner

-Vs-

- 1.The Divisional Engineer,
National Highways Department, Ka(ma)Pa,
Thoothukudi, Thoothukudi District.
- 2.The Assistant Divisional Engineer,
National Highways Department, Ka(ma)Pa,
Kovilpatti, Thoothukudi District.
- 3.The Thasildar,
Kovilpatti Taluk,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Notice in Ku.No.739/2023/A2 dated 11.12.2023 issued by the 2nd respondent and quash the same and consequently direct the respondents to survey the



W.P.(MD) No.444 of 2024

petitioner's property in old Bimos No. 132, New S.Nos. 633/24 to 31 to the total extent of 4461 sq.ft based on his documents as well as 40 feet Road runs in front of the petitioner's house and further direct the 3rd respondent to issue patta to said petitioner's property.

For Petitioner : Mr.R.Gowrishankar
For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This writ petition was filed challenging the notice issued by the Assistant Divisional Engineer dated 11.12.2023 in Ku.No. 739/2023/A2 and seeking a consequential direction to the respondents to survey the petitioner's property and to issue patta.

2.Mr.N.Satheeshkumar, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, the property in question was purchased by his father through a registered sale deed and thereafter, it was gifted to the



W.P.(MD) No.444 of 2024

petitioner by way of a registered gift deed dated 16.06.2014. The petitioner constructed a house and living there. While so, the second respondent issued a notice to the petitioner alleging that the petitioner had constructed the compound wall by encroaching upon the main road and directed the petitioner to remove the same, which is under challenge in the present writ petition.

4.The learned counsel for the petitioner submits that the petitioner would be satisfied if the property in question is directed to be surveyed in presence of the petitioner within the time frame. He also submits that if the survey reveals that there is an encroachment, the petitioner will not have any grievance to remove the same.

5.The learned Additional Government Pleader appearing for the respondents submits that the impugned show cause notice was issued only after measuring the subject property. The petitioner without giving any explanation or objection to the said notice, had approached this Court by way of this writ petition. However, the grievance expressed by the petitioner will be considered by the authorities concerned and the property in question will be measured in the presence of the petitioner within the time frame to be stipulated by this Court.



W.P.(MD) No.444 of 2024

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6. In view of the above submissions made on either side, this Court directs the third respondent to measure the property in question in the presence of the petitioner within a period of two weeks from the date of receipt of a copy of this order. If the survey reveals that the petitioner has encroached upon the property belongs to the Highways Department, then the petitioner shall hand over the possession to the Department within a period of one week from the date on which the survey was conducted. If the petitioner failed to do so, the Department shall initiate necessary action against the petitioner in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
10.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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